



Town of Tyngsborough
Planning Board
25 Bryants Lane,
Tyngsborough, Massachusetts 01879-1003
Office: (978) 649-2300 ext. 115

MINUTES
May 2, 2013

APPROVED

Attachments:

1. Meeting Agenda
2. 81 Westford Rd. Layout Modification Plan – 5/2/2013
3. David E. Ross Associates Report for 81 Westford Rd. – 4/30/2013
4. Tyngsborough Fire Dept. Comments for 81 Westford Rd. – 5/2/2013
5. Proposed Zoning By-Law Amendment for Section 2.11.50
6. Proposed Zoning By-Law Amendment for Section 2.15.23
7. Zoning By-Law Section 4.15.30 Memo – 5/2/2013
8. Heritage Properties Letter Regarding Land off of Danforth Rd. – 4/9/2013
9. Town Administrator Street Acceptance By-Law Amendment Memo – 4/30/2013

Members Present: Tom Delmore, Chairman
Bill Gramer, Vice Chairman
Steve Nocco
Steve O'Neill
Kimberly OBrien

7:00pm - Meeting called to order by Chairman Tom Delmore

7:02pm **81 Westford Rd. (M21, P4, L0)** – Modification of the existing Special Permit and Site Plan Special Permit for the purpose of constructing a ~10,000s.f. building to contain a daycare facility.

S. Nocco: Motion to waive the reading of the legal notice & abutters list

S. O'Neill: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

Atty. Nicosia appeared with applicant Frank Polak and engineer Doug Lees with a layout modification plan for the site at 81 Westford Rd. This site was approved for a Special Permit by the Planning Board May 3, 2012 for a Major Business Complex with two separate buildings. One would be Honey Dew Donuts and the other was slated to contain a bank. Since that approval the second building has now been slated to be a daycare facility known as “The Learning Experience”. Engineer Doug Lees submitted the layout modification plan that includes the relocation of the buildings themselves for improved traffic flow through the site and to maintain safety for Honey Dew patrons, and parents, children, and employees of the daycare facility. In addition, the dumpsters were relocated, a second entrance was added and an island

was designed to segregate the Honey Dew building from the daycare. Mr. Lees went on to say that the changes result in a decrease of impervious surface from 55,000 s.f., to 53,000 s.f. Atty. Nicosia added that they are in the process of filing with the Conservation Commission for an amendment to the Order of Conditions.

J. Johnson reviewed the plans and noted a few things that have been addressed since his review. In addition, the Tyngsborough Fire Dept. reviewed the modification and was happy with the accommodations made for emergency vehicle access through the site.

President Joe McCleary of Notre Dame Academy was present and asked if these changes would impact the Notre Dame property. Atty. Nicosia assured him that these changes would not impact them as the building use was changing from bank to daycare, and the site modifications have been improved. In addition, all State and Federal regulations will be adhered to with regards to a daycare facility. No other abutters were present to speak on this project.

T. Delmore: Motion to close the public portion of the hearing.

W. Gramer: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

S. O'Neill: Motion to approve the amendment to the Special Permit for 81 Westford Rd. per layout modification plans dated May 2, 2013.

S. Nocco: 2nd the motion

Roll Call Vote:

S. O'Neill: In Favor

T. Delmore: In Favor

W. Gramer: In Favor

S. Nocco: In Favor

K. O'Brien: In Favor

Passes: 5-0

7:30pm Zoning By-Law Amendment Review

1. Section 2.11.50 Accessory Use Regulations

As a result of additional questions from the Board of Selectmen, the Board consulted with Building Commissioner Paul Welcome for further clarification regarding this zoning bylaw amendment. The intent of the modification is to make it easier for homeowners to construct a 10 x 12 (120sq. ft.) shed on an undersized lot without having to go through the lengthy Board of Appeals process. Setbacks for pools are regulated under Section 2.12.50 and in-ground pools would still have to abide by the proper setbacks. The Board decided to add a statement that clarifies pool setbacks.

W. Gramer: Motion to add the following statement to Section 2.11.50 Accessory Use Regulations that reads: "Above Ground Swimming Pools shall be an accessory use to all single and two family dwellings and require a setback of thirty (30) feet from front lot line and not less than ten (10) feet from side and rear lot lines. In-ground pools shall continue to adhere to the dimensional requirements of Section 2.12.50."

S. O'Neill: 2nd the motion

In Favor: 5 Opposed: 0

Passed: 5-0

2. Section 2.15.23 Restoration

As a result of additional questions from the Board of Selectmen, the Board decided to remove the original proposed amendment statement "voluntarily demolished" since this course of action is covered under Section 2.15.24.

W. Gramer: Motion to amend the Board's recommendation to the Board of Selectmen by removing the statement "voluntary demolished" from Section 2.15.23 Restoration.

S. O'Neill: 2nd the motion

In Favor: 5 Opposed: 0

Passed: 5-0

3. Section 4.15.30 Decision Criteria

An amendment to this section was approved by Town Meeting in October of 2012. However, it was discovered that the Zoning By-Law document was not updated prior to the public hearing held on April 18, 2013 concerning another proposed amendment to this section. Therefore, due to the scrivener's error, the Board clarified the amendment as being just the increase in the square footage from 700 square feet to 1,200.

W. Gramer: Motion to amend Paragraph 2 only of Section 4.15.30 Decision Criteria for Temporary Independent Living Quarters.

S. Nocco: 2nd the motion

In Favor: 5 Opposed: 0

Passed: 5-0

DISCUSSION

Danforth Road Land – Brian Bush, Heritage Properties, Inc.

Brian Bush of Heritage Properties appeared before the Board to discuss the property on Danforth Road that he recently purchased. He is proposing a two lot subdivision with a 500 ft. cul-de-sac and wanted to informally discuss his ideas with the Board and get any concerns and or comments from the Board and area residents. Residents from 56 and 71 Danforth Rd. had traffic, drainage, and road condition concerns. Mr. Bush assured the Board and residents that he would be

cognizant of all concerns and follow all proper procedures and regulations with regards to filing with the proper Town departments for the proper permits. The Board asked if there was a timeline for the project, however, Mr. Bush had no definitive ideas on that yet.

REQUEST FOR COMMENTS

Article IX of the Town Bylaws: Acceptance of Streets – Proposed Amendment by the Board of Selectmen

The Board of Selectmen is proposing an amendment to the Town Bylaws regarding street acceptance procedures. The Board asked engineer J. Johnson to review the proposed amendment and compare it to the Subdivision Control Law to see if it's consistent with current procedures.

ADMINISTRATIVE

S. O'Neill: Motion to approve the minutes from April 18, 2013 as written.

S. Nocco: 2nd the motion

In Favor: 4 Opposed: 0 Abstain: 1

Passes: 4-0-1

8:45pm

S. Nocco: Motion to adjourn

S. O'Neill: 2nd the motion

In Favor: 5 Opposed: 0

Passes: 5-0

Minutes respectfully submitted by
Pamela Berman, Planning Board Administrative Assistant